



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT
P.O. BOX 621
HONOLULU, HAWAII 96809

LAURA H. THIELEN
CHAIRPERSON
WILLIAM D. BALFOUR, JR.
SUMNER ERDMAN
NEAL S. FUJIWARA
CHIYOME L. FUKINO, M.D.
DONNA FAY K. KIYOSAKI, P.E.
LAWRENCE H. MUIKE, M.D., J.D.
KEN C. KAWAHARA, P.E.
DEPUTY DIRECTOR

STAFF SUBMITTAL
for the meeting of the
COMMISSION ON WATER RESOURCE MANAGEMENT

February 17, 2010
Honolulu, Hawaii

Application for a Stream Channel Alteration Permit (SCAP.2504.8)
New House, Gazebo and Pond, Pukihae Stream
Hilo, Hawaii, TMK: (3) 2-6-008:022

APPLICANT:

Jolianna Leaird-Okura
P.O. Box 963
Hilo, HI 96721

LANDOWNER:

Same

SUMMARY OF REQUEST:

Application for a Stream Channel Alteration Permit (SCAP.2504.8) to construct a new house, gazebo and pond along Pukihae Stream in Hilo, Hawaii at TMK: (3) 2-6-008:022.

LOCATION: See Exhibit I.

BACKGROUND:

On December 15, 2003, the applicant submitted an application for a Stream Channel Alteration Permit to construct two concrete footings and columns to support a teahouse, as well as landscaping and a lava rock wall along the north bank of Pukihae Stream.

During coordination with the applicant, staff determined the stream channel would consist of the area below the 79-foot contour elevation based on photographs of the site provided by the Division of Aquatic Resources (DAR).

On April 21, 2004, the Commission on Water Resource Management (Commission) approved the applicant's SCAP to construct two concrete footings and columns for a teahouse and landscaping and a lava rock wall along the north bank of Pukihae Stream subject to the Commission's standard conditions and the following special condition:

Prior to construction work, the permittee shall submit final working drawings showing the lava rock wall, at about the 78-foot contour elevation. The scale of the drawing shall be 1 inch = 10 feet, which is the same scale of the permittee's survey map. In addition, the permittee shall submit working drawings for the foundation and support structure for the teahouse.

DESCRIPTION:

Pukihæ Stream flows along the southern edge of the applicant's one-acre property which generally slopes from a northwesterly to a southeasterly direction. The highest elevation of 123 feet is located in the northwest corner, and the lowest elevation, approximately 72 feet, is located at the edge of the stream in the southeast corner of the property.

The applicant's building plans have changed substantially since the Commission's 2004 approval, and a new SCAP is required. Construction drawings for the one-level, 985 square feet home will be prepared after the applicant's SCAP has been approved. Construction for the new home will take approximately six to 12 months, and the pond will be constructed at a later date. See Exhibits 2 and 3.

ANALYSIS:

Agency Review Comments:

The U.S. Army Corps of Engineers:

- The proposed project is located on uplands adjacent to and above the ordinary high water mark (OHWM) of Pukihæ Stream and will not encroach into the County-designated 20-foot setback from the stream. The house, pond and gazebo are, therefore, not subject to the Corp's regulatory jurisdiction under Section 404, Clean Water Act (CWA), and a Department of Army (DA) permit is not required, pursuant to Section 404, for any activities that would involve permanent placement of fill and/or dredged material above the bed and bank structure of Pukihæ Stream.
- Additional information is required if sculpting of the Pukihæ streambank is contemplated.
- Any placement of fill material to stabilize, harden, raise, or otherwise change the topography or position of the existing streambank may require a DA permit authorization.
- The applicant must apply for and receive authorization from the Corps prior to any discharges of fill material into Pukihæ Stream.

The U.S. Fish and Wildlife Service (USFWS) recommended that precautions be taken to prevent overflow of the pond in flood conditions that would inadvertently introduce exotic species to the native stream habitat. The USFWS recommended that an earthen or other physical barrier be constructed between the pond and the stream to prevent any overflow into the stream and to conserve the stream habitat for native stream species by not allowing any hydrologic connection to the stream.

The Department of Health (DOH) Clean Water Branch (CWB):

- Any project and its potential impacts to State waters must meet the State's anti-degradation policies, designated uses and water quality criteria.
- A site-specific construction Best Management Practices (BMPs) Plan should be established and properly implemented by the applicant to properly isolate and confine the construction activities and to contain and prevent potential pollutant(s) discharges from adversely impacting the State waters.
- An Applicable Monitoring and Assessment Plan should be properly designed and implemented to ensure the adequacy of the implemented BMPs measures and to demonstrate that the project construction and/or operation related to discharge activities do not cause the State's water quality criteria to be violated.

- The use of cesspools requires approval from the DOH's Waste Water Branch (WWB), and there is 50-foot setback requirement from all edges of an Individual Wastewater System (i.e. Cesspool) facility to the edge of streambanks.
- No details on the pond's water circulating system were provided for detailed review for the requirements under the National Pollutant Discharge Elimination System (NPDES). A NPDES permit is required if discharge of circulation water into Pukihae Stream from the proposed decorative pond is designed or anticipated.
- All discharges related to the project construction activities must comply with the State Water Quality Standards (WQS).

The County of Hawaii Planning Department: the property is not located in the Special Management Area (SMA) and is not subject to SMA permitting requirements.

The County of Hawaii Department of Public Works previously commented that the project is located within Flood Zone X (outside the 100- and 500-year floodplains) according to the Flood Insurance Rate Map (FIRM) prepared by the Federal Emergency Management Agency (FEMA), and that the National Flood Insurance Program (NFIP) does not have any regulations for developments within Flood Zone X.

The Department of Hawaiian Home Lands did not have any objections to the project. The University of Hawaii Environmental Center and Office of Hawaiian Affairs did not submit comments as of the date of preparation of this submittal.

DLNR Review Comments:

- The Division of Aquatic Resources (DAR): the plan for the pond did not show where the pond effluents will go and requested an explanation on how pond effluent will be contained and prevented from reaching the stream and how alien species will be prevented from escaping into the stream.
- Land Division: the abutting private properties own to the centerline of Pukihae Stream at this project site. Since no State lands are involved, no permits are required from the Land Division.
- Engineering: the project site is located in Flood Zone X according to the Flood Insurance Rate Map (FIRM). The National Flood Insurance Program (NFIP) does not have any regulations for developments within Flood Zone X.
- Forestry and Wildlife deferred to DAR to comment on invasive species.
- State Parks had no objections to the project.
- Historic Preservation did not submit comments as of the date of preparation of this submittal.

Staff Review

The foundation and footings for the applicant's new house will be located below the previously-determined streambank elevation of 79 feet, and the future the pond will also be constructed below the 79-foot contour. The pre-fabricated gazebo will be placed at about the 78-foot elevation. The Commission's Standard Stream Channel Alteration Permit Condition #5 now requires all permittees to submit final working drawings and specifications to determine consistency with the conditions of the permit and the declarations set forth in the permit application so this requirement is not necessary for this application.

USFWS and DAR have expressed concerns about effluent from the pond and exotic species escaping into the native stream habitat which the applicant must address. DOH's recommendation for a site-specific best management practices (BMP) plan is already included in the Commission's Standard Stream Channel Alteration Permit Condition #6.

Staff recommends that the following special conditions be added to the applicant's permit:

1. The permittee shall develop a plan acceptable to DAR to contain pond effluent and prevent alien species from escaping into Pukihae Stream.

RECOMMENDATION:

That the Commission approve a Stream Channel Alteration Permit (SCAP.2504.8) to construct new house, gazebo and pond along Pukihae Stream in Hilo, Hawaii at TMK: (3) 2-6-008:022 subject to the standard conditions in Exhibit 5 and the following special conditions:

1. The permittee shall develop a plan acceptable to DAR to contain pond effluent and prevent alien species from escaping into Pukihae Stream.

Respectfully submitted,


KEN C. KAWAHARA, P.E.
Deputy Director

Exhibits: 1. Location Map
 2. Site Plan
 3. Construction Plans
 4. Photos of Stream
 5. Standard Stream Channel Alteration Permit Conditions

APPROVED FOR SUBMITTAL:


LAURA H. THIELEN
Chairperson



Department of Land and Natural Resources
Commission on Water Resource Management
Stream Protection and Management Branch

ISLAND OF HAWAII

Streams

..... Ephemeral

----- Intermittent

————— Perennial

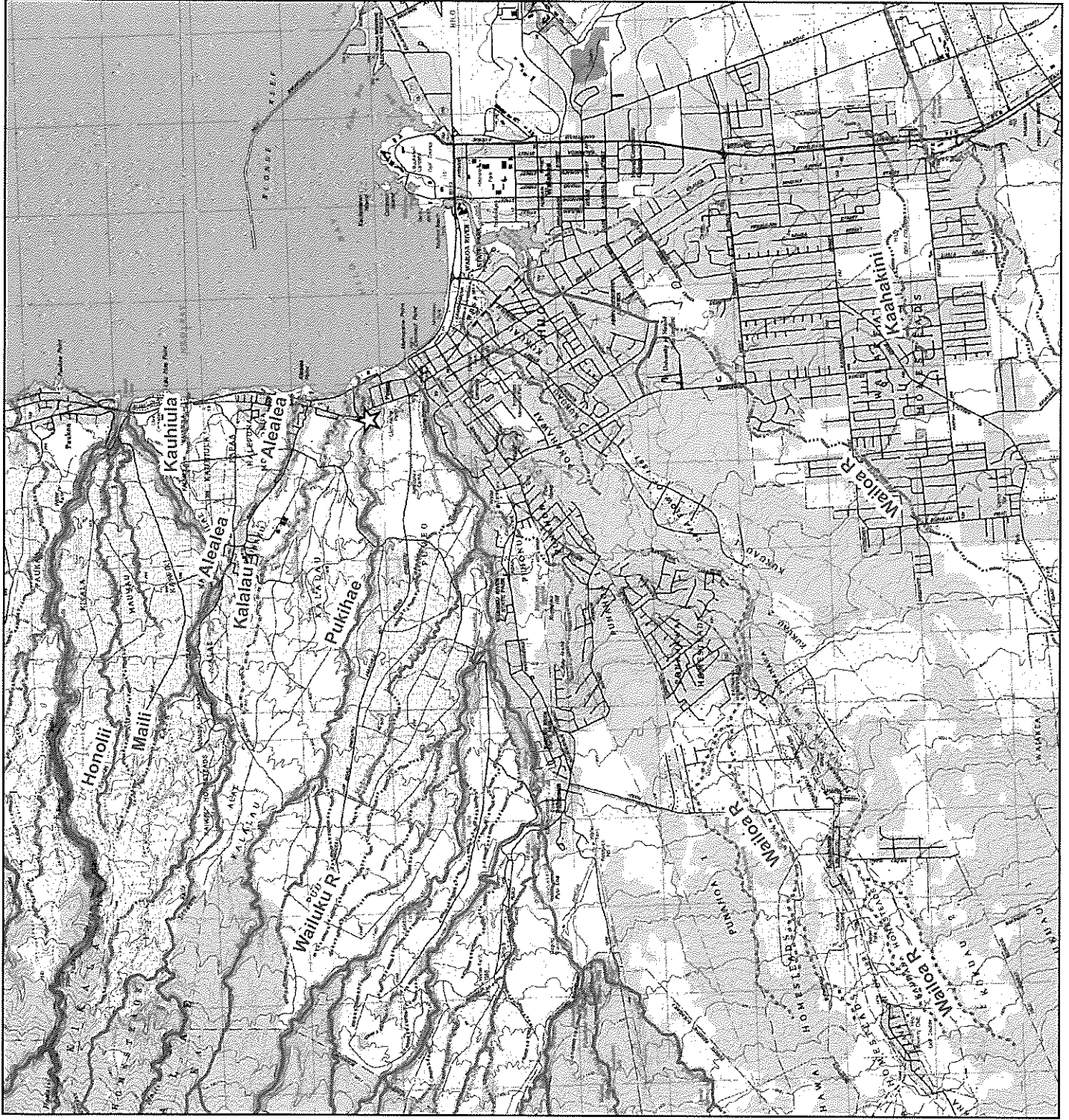
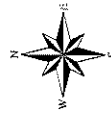


(3) 2-6-008:022

This map was produced by the Department of Land and Natural Resources (DLNR), Commission on Water Resource Management for planning purposes. It should not be used for boundary interpretations or other spatial analysis beyond the limitations of the data. Information regarding compilation dates and accuracy of the data presented can be obtained from DLNR.

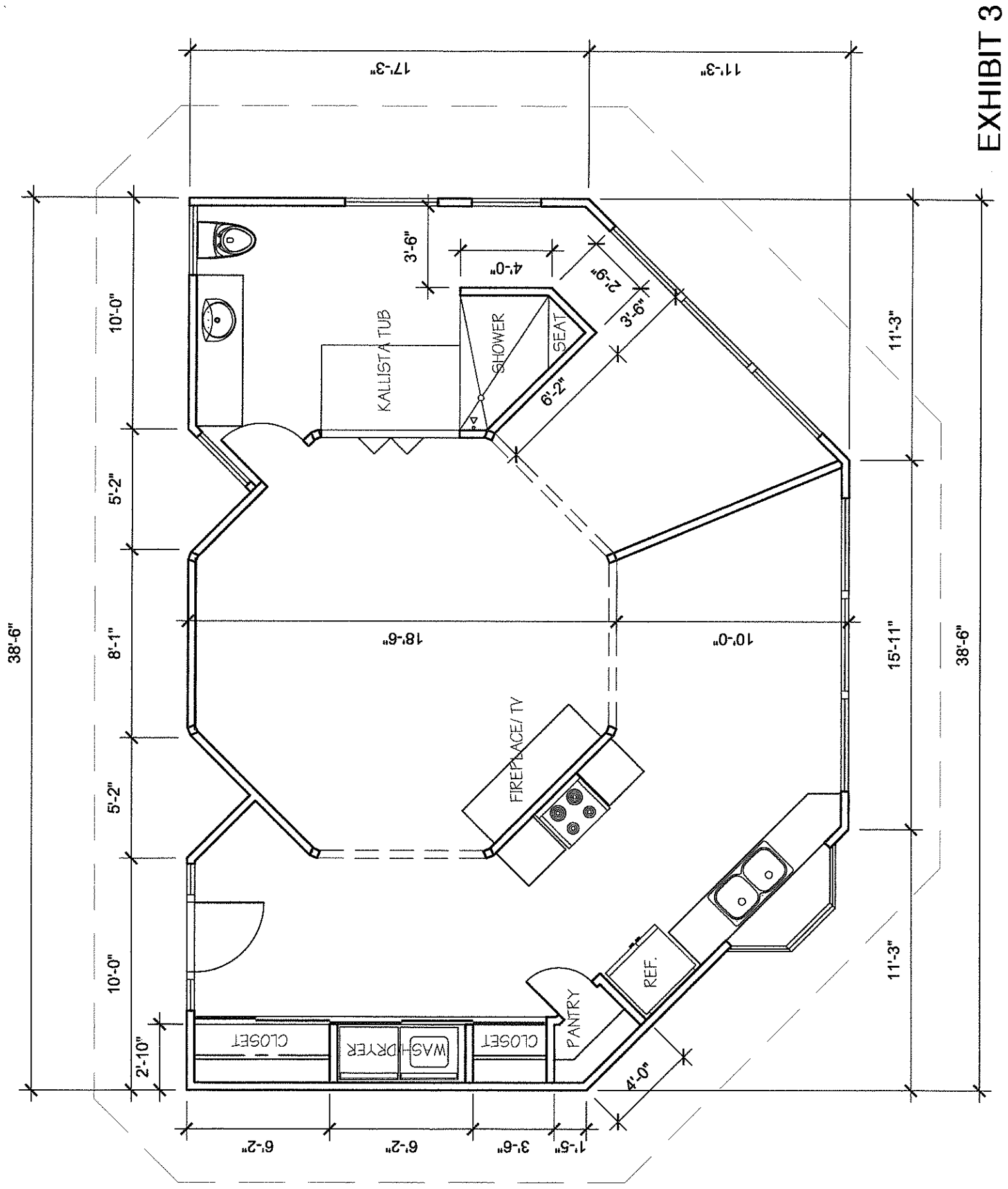
Datum: North American Datum 1983

Tax Map Key (TMK) layer is comprised of tax assessor parcels derived from paper plat maps with attributes from public tax assessor records and is updated by each respective county.





SHEET 2



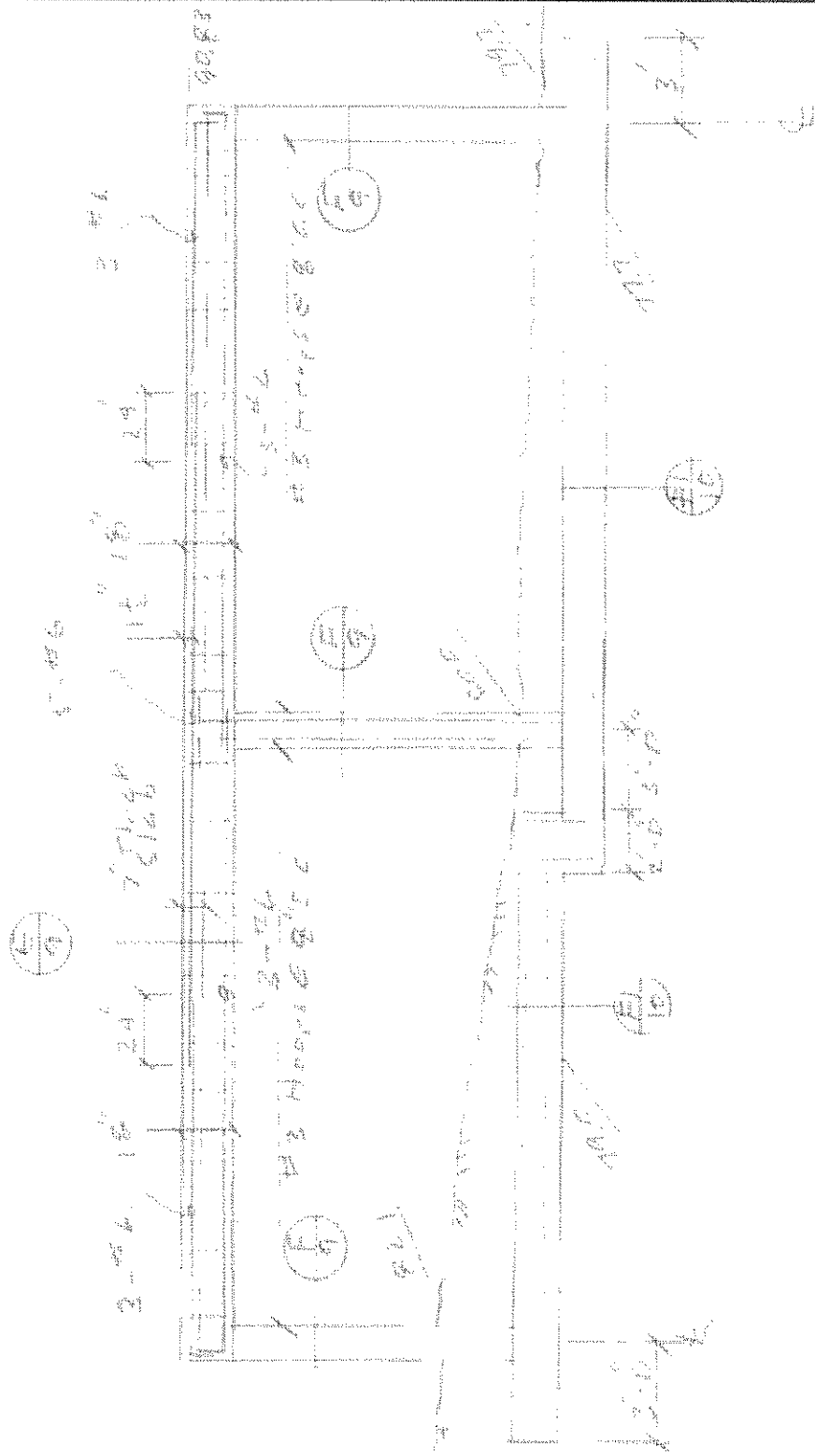
Project Name _____

Project No. _____

By _____

Checked by _____ Date _____

Subject _____

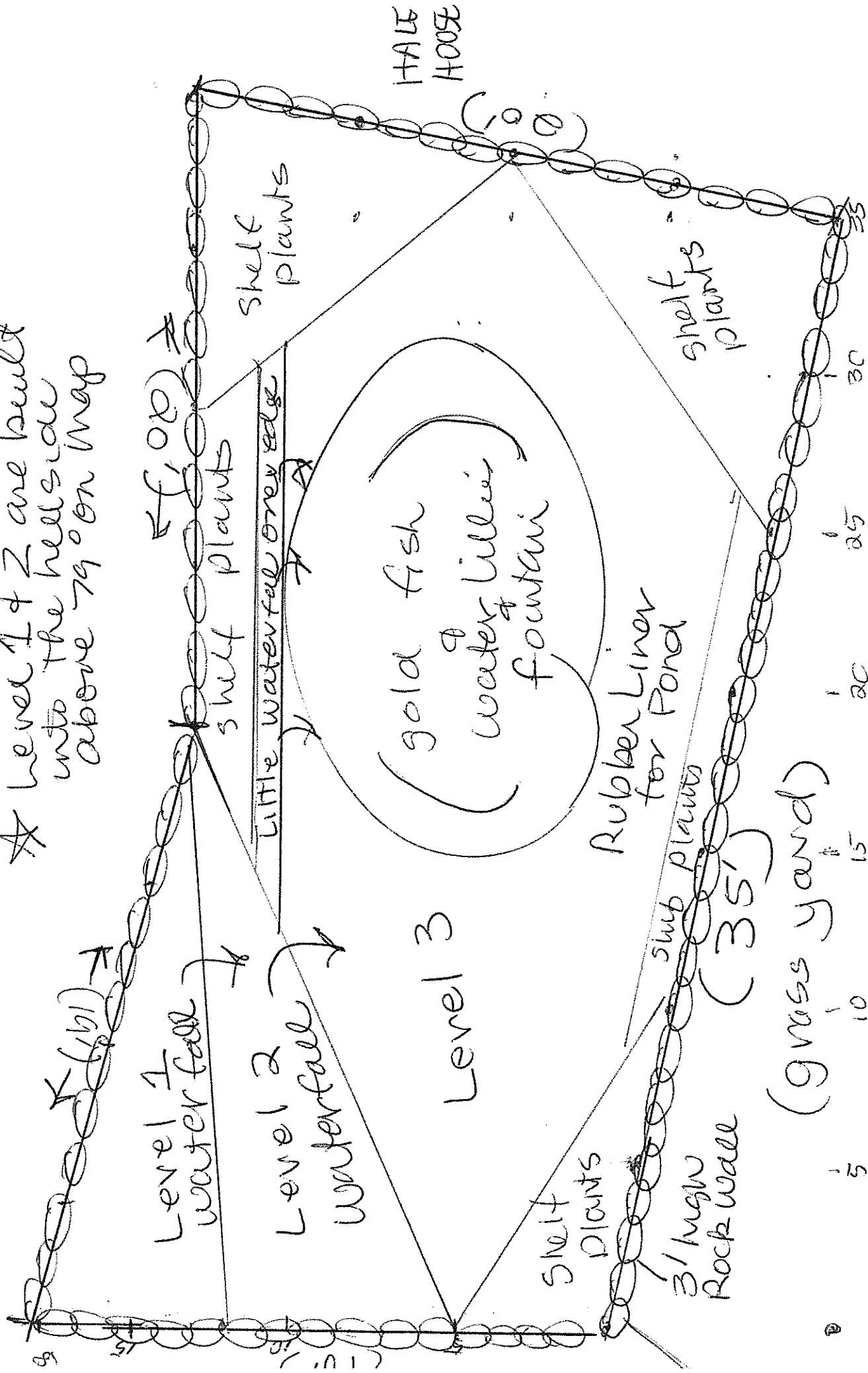


Section B

FISH POND

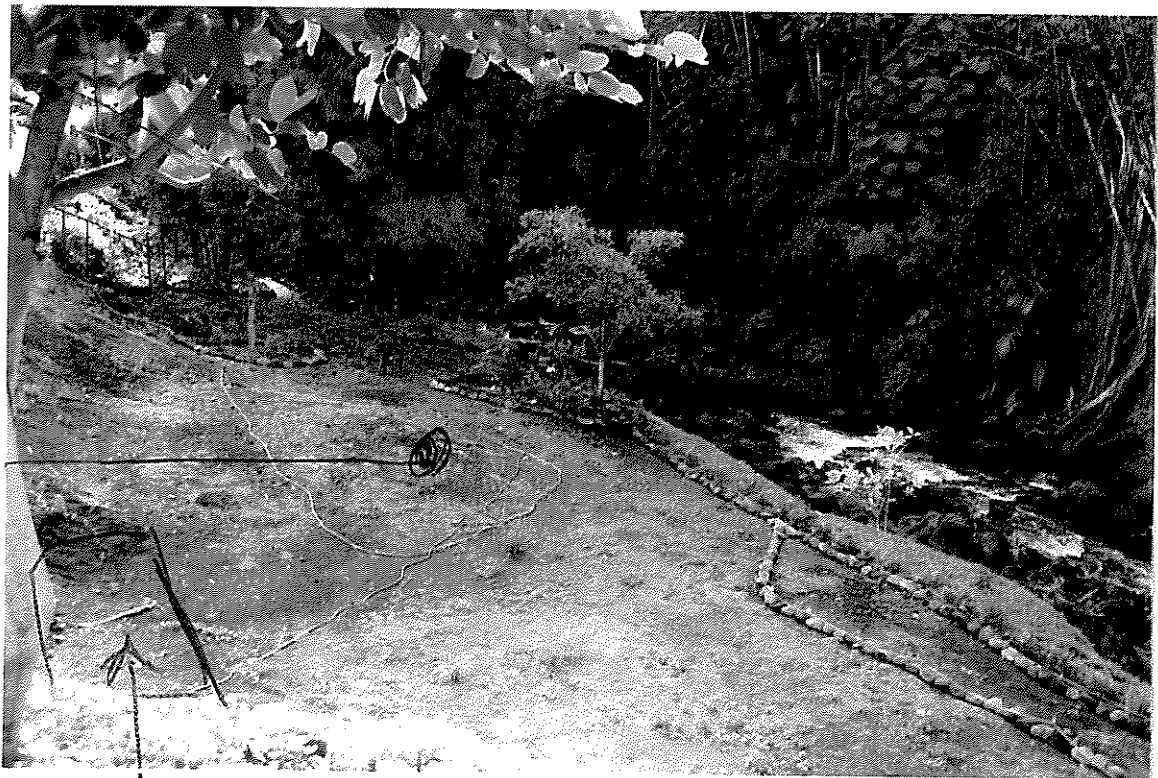
HALE HOUSE

★ Level 1 & 2 are built into the hillside above 79° on map





on
topo
map



pond area



STANDARD STREAM CHANNEL ALTERATION PERMIT CONDITIONS
(Revised 9/19/07)

1. The permit application and staff submittal approved by the Commission at its meeting on February 17, 2010, shall be incorporated herein by reference.
2. The applicant shall comply with all other applicable statutes, ordinances, and regulations of the Federal, State and county governments.
3. The applicant, his successors, assigns, officers, employees, contractors, agents, and representatives, shall indemnify, defend, and hold the State of Hawaii harmless from and against any claim or demand for loss, liability, or damage including claims for property damage, personal injury, or death arising out of any act or omission of the applicant or his successors, assigns, officers, employees, contractors, and agents under this permit or related to the granting of this permit.
4. The applicant shall notify the Commission, by letter, of the actual dates of project initiation and completion. The applicant shall submit a set of as-built plans and photos of the completed work to the Commission upon completion of this project. This permit may be revoked if work is not started within six (6) months after the date of approval or if work is suspended or abandoned for six (6) months, unless otherwise specified. The proposed work under this stream channel alteration permit shall be completed within two (2) years from the date of permit approval, unless otherwise specified. The permit may be extended by the Commission upon showing of good cause and good-faith performance. A request to extend the permit shall be submitted to the Commission no later than three (3) months prior to the date the permit expires. If the commencement or completion date is not met, the Commission may revoke the permit after giving the permittee notice of the proposed action and an opportunity to be heard.
5. Before proceeding with any work authorized by the Commission, the applicant shall submit one set of construction plans and specifications to determine consistency with the conditions of the permit and the declarations set forth in the permit application.
6. The applicant shall develop site-specific, construction best management practices (BMPs) that are designed, implemented, operated, and maintained by the applicant and its contractor to properly isolate and confine construction activities and to contain and prevent any potential pollutant(s) discharges from adversely impacting state waters. BMPs shall control erosion and dust during construction and schedule construction activities during periods of low stream flow.
7. The applicant shall protect and preserve the natural character of the stream bank and stream bed to the greatest extent possible. The applicant shall plant or cover lands denuded of vegetation as quickly as possible to prevent erosion and use native plant species common to riparian environments to improve the habitat quality of the stream environment.
8. In the event that subsurface cultural remains such as artifacts, burials or deposits of shells or charcoal are encountered during excavation work, the applicant shall stop work in the area of the find and contact the Department's Historic Preservation Division immediately. Work may commence only after written concurrence by the State Historic Preservation Division.